

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

| | | |
|--------------------------------|---|----------------------------------|
| BYRON ROBERT WINTER, |) | |
| |) | |
| Petitioner, |) | NO. CV-05-046-MWL |
| |) | |
| v. |) | ORDER ADOPTING REPORT AND |
| |) | RECOMMENDATION TO DISMISS |
| |) | PETITION WITH PREJUDICE |
| WASHINGTON STATE DEPARTMENT OF |) | |
| CORRECTIONS, |) | |
| Respondent. |) | |

Magistrate Judge Leavitt filed a Report and Recommendation on March 25, 2005, recommending Petitioner's Petition for Writ of Habeas Corpus (Ct. Rec. 1) be dismissed with prejudice. (Ct. Rec. 2.) On April 1, 2005, Petitioner timely filed objections to the U.S. Magistrate Judge's Report and Recommendation. (Ct. Rec. 3.)

Petitioner objects to a Magistrate Judge considering his petition rather than an Article III Judge. Because the undersigned Article III Judge decides the disposition of the petition, this objection is without merit.

Petitioner objects to the habeas corpus form used by the district court and to the finding of the Magistrate Judge that his assertions are frivolous. (Ct. Rec. 2.) For the reasons given by the Magistrate Judge, Mr. Winter's objections are not well taken.

Accordingly,

IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation to dismiss Petitioner's Petition for Writ of Habeas

1 Corpus with prejudice (Ct. Rec. 2) is **ADOPTED** in its entirety.
2 Petitioner's Petition for Writ of Habeas Corpus (Ct. Rec. 1) is
3 **DENIED** and **DISMISSED with prejudice**. The parties shall bear their
4 own costs.

5 **IT IS SO ORDERED.** The District Court Executive is directed to
6 enter this Order, prepare and enter judgment accordingly, forward
7 copies to the parties, and close the file.

8 **DATED** this 13th day of April, 2005.

9
10
11 s/ Edward F. Shea
12 HON. EDWARD F. SHEA
13 UNITED STATES DISTRICT COURT JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28